

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CHRISTOPHER JOHNSON,

Plaintiff,

v.

ELDON VAIL, *et al.*

Defendants.

Case Nos. C05-748-MJP-JPD
C05-957-MJP-JPD

ORDER RE: MOTION TO RECUSE
STYLED AS MOTION FOR CHANGE
OF VENUE TO U.S. DISTRICT COURT
OF CALIFORNIA

Plaintiff is a Washington state prisoner who brings this *pro se* civil rights action pursuant to 42 U.S.C. § 1983. In his complaint, plaintiff alleges that he is a “Senior U.S. Constable,” that he is not mentally ill, and that prison officials have required him to take anti-psychotic medication to which he is allergic. (Doc. #8). On August 18, 2005, plaintiff filed an “emergency motion for change of venue” to another federal court. (Doc. #28). In the motion, plaintiff alleges that the undersigned Magistrate Judge is biased against him. (*Id.* at 1). Therefore, although petitioner’s motion does not cite 28 U.S.C. § 144, the court regards his motion for change of venue as a motion to recuse governed by that statute and by Local Rule GR 8(c).


Pursuant to Local Rule GR 8(c), I have reviewed plaintiff’s motion and see no valid basis for the allegations of prejudice and no justification for recusing voluntarily. Indeed, I have made no rulings adverse to the plaintiff thus far in the proceedings before me. The only conceivable basis for plaintiff’s motion might be plaintiff’s perception that a ruling on his motion for preliminary injunction has been delayed – the motion was noted for July 29, 2005 and is presently pending.

However, any delay in addressing that motion has been caused by plaintiff’s actions. After

1 defendants filed a response to plaintiff's motion, plaintiff filed a reply which included a declaration
2 of "John Henry Lee, M.D., Ph.D.," that on its face appears to be written in plaintiff's own
3 handwriting. (Doc. #22). Defendants then filed a motion to strike Dr. Lee's declaration as
4 fraudulent and to dismiss plaintiff's lawsuit as a sanction under Federal Rule of Civil Procedure 11.
5 (Doc. #24). Defendants' motion was noted for August 19, 2005. Because the disputed declaration of
6 Dr. Lee was the main support for plaintiff's motion for preliminary injunction, the court deferred
7 consideration of plaintiff's motion to allow plaintiff an opportunity to rebut the arguments presented
8 by defendants that the declaration is fraudulent.

9 Plaintiff filed his response to defendants' motion on August 10, 2005 (Doc. #26) and
10 defendants filed their reply on August 12, 2005. (Doc. #27). The court was preparing to issue a
11 Report and Recommendation addressing both defendants' motion to strike and plaintiff's motion for
12 preliminary injunction when the instant motion for recusal was filed. Pursuant to Local Rule 8(c),
13 the motion to recuse (Doc. #28) is now referred to the Chief Judge. Further action in this case is
14 deferred pending a ruling by the Chief Judge as to whether petitioner has presented a sufficient basis
15 for recusal. The Clerk shall direct copies of this order to plaintiff, to counsel for defendants, and to
16 the Honorable Robert S. Lasnik, Chief Judge.

17 DATED this 29th day of August, 2005.

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20 JAMES P. DONOHUE
21 United States Magistrate Judge
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